

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SECOND DAY — WEDNESDAY, JANUARY 12, 2005

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 2).

Present — Mr. Speaker; Allen, A.; Allen, R.; Alonzo; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent — Anchia; Gonzales; Hartnett; Jones, J.; Seaman; Strama.

The invocation was offered by Rev. John R. Evans, Austin Presbyterian Theological Seminary, as follows:

Great and gracious God, mighty ruler of our world and all the principalities and powers within our world, you are our hope when we seek you. You are our joy when we find you. As this legislature convenes, grant to those gathered both a hopeful seeking and a joyful finding of your will for the citizens and leaders of the State of Texas as now these servants go about the important work before them.

We give you our thanks for the hopeful vision and joyful outcomes you can bring, even when the pathways of policy and procedure are muddled or dimmed by human frailty. As now we look toward the unfolding new year and new session, we ask that you grant this assembled body a due sense of dependence on you and a lively sense of your presence with them as new opportunities turn their attention to this state's future.

Creator God, for this rich land you have given to us as an inheritance; for opportunities we now have to build bridges of compassion and justice for our children and citizens across this state, nation, and world; for our great freedom and power entrusted to us to choose those who govern and exercise human concern; for the fidelity and faithfulness of these gathered servants of our state; and for occasions to spread love and grace, even through laws; we do raise our hearts and voices in praise and thanksgiving.

For words of encouragement that find us when our flame is low; for helping hands that reach us when the load is more than we can bear; for retrievable insights that come to mind when two ways open and we must decide; we give you heartfelt thanks.

Be present and active in this place with each one here today, even as you have promised you will, for you always keep your promises. Amen.

CAPITOL PHYSICIAN

The speaker recognized Representative Morrison who presented Dr. David Henry Watson of Yoakum as the "Doctor for the Day."

The house welcomed Dr. Watson and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Anchia, Gonzales, Seaman, and Strama now present)

PROCLAMATION BY THE SPEAKER RELATING TO ELECTION CONTESTS SELECT COMMITTEE APPOINTED

WHEREAS, Proceedings have been initiated by Talmadge Heflin to contest the election of Hubert Vo to the office of state representative, District 149;

WHEREAS, Proceedings have been initiated by Eric Christopher Opiela to contest the election of Yvonne Gonzalez Toureilles to the office of state representative, District 35;

WHEREAS, Proceedings were initiated by Jack Stick to contest the election of Mark Strama to the office of state representative, District 50;

WHEREAS, Mr. Stick filed a notice of withdrawal of the contest to the office of state representative, District 50 on January 5, 2005, but ancillary issues relating to costs of that election contest remain;

WHEREAS, The scope of inquiry of a tribunal hearing an election contest is defined in Section 221.003, Election Code;

THEREFORE:

1. As speaker of the house, acting under authority of Chapter 241, Election Code, I hereby appoint Representative Will Hartnett to continue to serve as master of discovery in the matter of the contest of the election for state representative, Districts 35 and 149, and any issues remaining in the election contest in District 50 following the notice of withdrawal of Mr. Stick. Representative Hartnett was initially appointed master of discovery in these cases on December 6, 2004.

2. In accordance with Section 241.009, Election Code, the master shall supervise discovery proceeding and the taking of depositions, issue any necessary process, receive and report evidence, and perform any other assigned duties in assisting the Select Committee on Election Contests and the house of representatives in disposing of the contests in accordance with Chapters 221 and 241, Election Code and within the scope of inquiry of a tribunal hearing an election contest as defined in Section 221.003, Election Code;

3. Acting under the authority of Section 241.011, Election Code, I hereby appoint a Select Committee on Election Contests to hear the contest of election for state representative, District 35 and 149, and any issues remaining in the election contest in District 50 following the notice of withdrawal of Mr. Stick. The Select Committee on Election Contests was initially appointed on December 6, 2004. The following members are hereby appointed to continue to serve on the Select Committee on Election Contests:

Terry Keel, chair
Craig Eiland, vice-chair
Mary Denny
Helen Giddings
Ryan Guillen
Suzanna Gratia Hupp
Phil King
Larry Phillips
Allan Ritter

4. The Select Committee on Election Contests shall conduct its investigation of the issues raised by the contests in accordance with Chapters 221 and 241, Election Code, and report to the house of representatives in accordance with that law and within the scope of inquiry of a tribunal hearing an election contest as defined in Section 221.003, Election Code;

5. The Select Committee on Election Contests has all the powers and duties not inconsistent with the Election Code that are conferred on standing committees of the house by the Rules of the House and Subchapter B, Chapter 301, Government Code;

6. The Select Committee on Election Contests shall use the Texas Rules of Civil Procedure and the Texas Rules of Evidence as guidelines in its proceedings, subject to changes in those rules or limitations imposed by the committee;

7. For the purpose of these contests, proceedings before the Select Committee on Elections Contests shall be considered proceedings before a tribunal under the Texas Disciplinary Rules of Professional Conduct and these rules shall govern the conduct of parties and their counsel before the Select Committee; and

8. An order, ruling, finding, or other determination issued or made by either the Select Committee or the master in any contest before the convening of the 79th Legislature is continued in effect.

January 12, 2005

Tom Craddick
Speaker of the House

(Hartnett now present)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of illness:

D. Jones on motion of B. Cook.

(J. Jones now present)

(Krusee in the chair)

**HR 3 - ADOPTED
(by Hamric)**

The following resolution was laid before the house:

HR 3

BE IT RESOLVED by the House of Representatives of the State of Texas, That the following is adopted as the housekeeping resolution for the House of Representatives of the 79th [~~78th~~] Legislature:

**HOUSEKEEPING RESOLUTION FOR
THE HOUSE OF REPRESENTATIVES
OF THE TEXAS LEGISLATURE
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ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. PURPOSE. This resolution is adopted by the members of the House of Representatives of the 79th [~~78th~~] Legislature to provide for the efficient and orderly operation of the house under the supervision of the speaker and the Committee on House Administration.

SECTION 1.02. PRECEDENCE. The provisions of this resolution take precedence over the provisions of any resolution not passed in full compliance with the rules of the house and, except as otherwise noted herein, shall be in effect during the full term of the 79th [~~78th~~] Legislature whether in session or adjournment.

ARTICLE 2. SPEAKER OF THE HOUSE

SECTION 2.01. SPEAKER'S GENERAL POWERS AND DUTIES. The speaker may make any expenditures or transfers and perform any function deemed necessary for the effective and efficient operation of the house of representatives.

SECTION 2.02. SPEAKER'S APARTMENT AND OFFICES. (a) The speaker's apartment and offices shall be set aside for the use of the speaker, his family, and members, as the speaker may designate, throughout the speaker's term of office.

(b) The Committee on House Administration may make the necessary expenditures to operate and properly equip and service the speaker's apartment and offices and may employ such help as may be necessary to properly maintain and care for the apartment and offices.

(c) The speaker and his family may occupy the speaker's apartment during the speaker's term of office, utilizing the services of employees of the house and others on a temporary basis, if and as needed.

(d) The speaker may obtain through the Committee on House Administration the necessary supplies and services to operate the speaker's office and may also have paid through that committee necessary local and long distance telephone charges.

SECTION 2.03. INTERSTATE OR FEDERAL-STATE ASSOCIATIONS; TRAINING SEMINARS. (a) The speaker may attend any meetings of or sponsored by the Council of State Governments and any meetings on problems of federal-state relations and interstate relations and cooperation, and any other governmental meeting in or outside the state.

(b) The speaker may appoint members of the house, staff members, and other employees of the house to accompany him or to represent him at these meetings or to attend in-service training courses sponsored by the Council of State Governments or the National Conference of State Legislatures or similar training courses, conferences, or seminars as the speaker may determine.

(c) Members of the house attending meetings under this section while the legislature is in session may be reimbursed for actual and necessary expenses. Members of the house attending meetings under this section while the legislature is not in session and staff members and other employees of the house attending meetings at any time under this section may be reimbursed for either actual and necessary expenses or receive a per diem not to exceed that provided by law for state officials or state employees. In addition, members, staff, and other employees attending meetings under this section may be reimbursed for mileage or other transportation expenses at the same rate as provided by law for state officials or state employees together with registration fees and tuition. To receive payment under this subsection, sworn expense accounts must be filed with and approved by the chair of the Committee on House Administration or an officer of the house designated in writing by the Committee on House Administration. Prior written approval of the chair of the Committee on House Administration to attend any such meetings, conferences, seminars, or training courses is a prerequisite for reimbursement for travel and other related expenses.

(d) Reimbursement for expenses incurred by a member, staff member, or employee of the house in an appointive capacity resulting from an appointment made by anyone other than the speaker shall be made only in the event that the appointment and expenses to be incurred have been previously approved in writing by the Committee on House Administration.

(e) The speaker may expend money for memberships in interstate associations of legislators considered necessary to discharge properly the duties and responsibilities of the office of speaker.

ARTICLE 3. GENERAL POWERS AND DUTIES OF THE COMMITTEE ON HOUSE ADMINISTRATION

SECTION 3.01. CONTRACTS. The Committee on House Administration shall approve all contracts necessary for the effective operation of the divisions of the house and its committees.

SECTION 3.02. HOUSE AND COMMITTEE OPERATING BUDGETS. The Committee on House Administration shall consider and adopt operating budgets that cover both session and interim periods for the divisions of the house and all committees appointed pursuant to the resolution adopting the rules of the house or appointed by the speaker pursuant to any other resolution.

SECTION 3.03. OPERATING POLICIES. The Committee on House Administration shall effectuate policies and determine guidelines for the operation of the divisions and committees of the house.

SECTION 3.04. HOUSE POLICY MANUAL. The Committee on House Administration shall prepare and distribute to all members, within 60 days after the convening of the regular session, policy statements to include, but not be limited to, policies pertaining to members as a class.

SECTION 3.05. HOUSE PROPERTY, SUPPLIES, ACCOUNTING. The Committee on House Administration shall:

(1) provide and maintain for the use of the speaker, members, employees, divisions, and committees of the house such stationery, stamps, office equipment, furniture, fixtures, supplies, and telephone and other services as may be necessary;

(2) keep an itemized account of the quantity and cost of every kind of material received, and the source from which it was received;

(3) maintain an annual operating account for each member, division, and committee authorized by the Committee on House Administration to make expenditures and charge each operating account with daily expenditures, withdrawals from inventory, and interdepartmental services;

(4) furnish a monthly statement for the expenditures of each member, division, and committee of the house; and

(5) adopt any rules, regulations, and policies necessary to effectively provide and account for the above-mentioned services.

SECTION 3.06. USE OF HOUSE CHAMBER AND FACILITIES; ASSIGNMENT OF DESKS, OFFICES, AND PARKING SPACES. (a) The Committee on House Administration shall:

(1) be in charge of and provide for the protection, maintenance, and use of the hall of the house, all committee rooms, offices of members and house departments, the speaker's office and apartment, and other space under the jurisdiction of the house;

(2) make permanent assignments of desks and offices to members of the house;

(3) adopt and enforce a plan for the parking of motor vehicles on the portion of the Capitol grounds under house jurisdiction;

(4) be in charge of and provide for the protection, maintenance, and use of the furniture, fixtures, equipment, and records of the house;

(5) purchase, remodel, repair, restore, or replace any furniture, fixtures, equipment, and other furnishings to maintain the dignity and appearance of space occupied by the house; and

(6) determine the hours the hall of the house shall be open to visitors.

(b) Any member who is not a member-elect of the ~~80th~~ ~~79th~~ Legislature shall vacate his or her office space before ~~December 1, 2006~~ ~~January 1, 2005~~. If the office is not vacated on that date, the Committee on House Administration shall immediately remove the member's personal effects and store them in an appropriate place in order that the member-elect to whom the office space is assigned may move in.

SECTION 3.07. RECORDS OF THE HOUSE; PRINTING; JOURNALS; COPIES OF LEGISLATIVE DOCUMENTS. (a) The Committee on House Administration shall:

(1) have completed and preserved the official records of the house;

(2) have charge of and approve the operation and maintenance of the printing and duplicating facilities of the house, provided, however, that the use of the house printing and duplicating facilities is restricted to agencies of the

legislative branch and any other operation thereof is strictly prohibited unless previously authorized in writing by the Committee on House Administration or an officer of the house designated in writing by the speaker;

(3) determine the number of copies of the daily House Journal to be printed and have jurisdiction over the mailing and distribution of the daily journal; and

(4) determine the number of copies of the House Journal that will be furnished to each member for distribution by the member.

(b) The employee in charge of the printing facilities must keep at least one copy of all items printed or duplicated and a copy of the work order authorizing such printing.

(c) Copies of bills, resolutions, and attachments thereto shall be made available free of charge to members of the house who call at the bill distribution office and request them, and the cost of these copies shall be paid from funds appropriated for that purpose by the legislature. If the Committee on House Administration finds gross abuse of this privilege, it may establish a policy regarding such distribution.

SECTION 3.08. HONORARY CERTIFICATES. The Committee on House Administration shall provide for the use of members appropriate certificates to commend, congratulate, and memorialize. Such certificates shall be printed with a signature line for the name of the presenting member and adequate space for insertion of the name of the individual or organization to be honored.

SECTION 3.09. COMPOSITE PHOTOGRAPH. (a) The Committee on House Administration shall select a suitable photographer to take individual photographs of each member. The photographer shall prepare a composite photograph of the members of the house composed of the individual photographs of each member arranged on a panel, of the same size as used in previous sessions, in such manner as to approximate the location of each member's desk on the house floor. The member's name and the county of residence shall be printed under the member's photograph, and the composite shall be framed and hung in the hall of the house during the regular session.

(b) The photographs for the composite panel shall be provided without cost to the members, and the expense of the composite panel shall be paid from the expense fund of the house.

(c) The Committee on House Administration shall establish, with concurrence of the photographer, a price to charge members for any prints of photographs they wish to purchase.

SECTION 3.10. POLICIES REGARDING TEMPORARY ACTING MEMBERS. If a person is serving as a temporary acting member of the house under Section 72, Article XVI, Texas Constitution, in the place of a house member on active military duty, the Committee on House Administration, with the approval of the speaker and in consultation with the temporary acting member and, if available, the member on military duty, may adopt policies regarding a temporary acting member that the committee considers necessary for the efficient administration and performance of the duties of the house consistent with this resolution, the rules of the house, and the Texas Constitution.

ARTICLE 4. EMPLOYEES AND EMPLOYMENT POLICIES

SECTION 4.01. DEFINITION. Unless expressly provided otherwise, in this article "employee" means any person compensated from funds appropriated to the house. The term includes persons for whom the employing authority is the speaker, the Committee on House Administration, an individual member, or a committee.

SECTION 4.02. OFFICERS AND SUPERVISORY ADMINISTRATIVE EMPLOYEES OF THE HOUSE. (a) The officers of the house and the employees of the house responsible for supervising the departments and divisions that support the operation of the house shall be appointed by and serve at the pleasure of the speaker.

(b) The speaker shall have the right to discharge any officer or supervisory administrative employee when the best interest of the house of representatives would be served by so doing.

(c) The authority to appoint and discharge officers and supervisory administrative employees may be delegated to the Committee on House Administration to the extent and for the length of time the speaker determines.

(d) In the event of the absence, resignation, or death of any officer or supervisory administrative employee the speaker may designate a person to take charge of and attend to all the duties of the office affected until the officer returns or until a successor is chosen.

SECTION 4.03. OTHER CENTRAL HOUSE PERSONNEL. (a) The Committee on House Administration shall employ all personnel necessary for the operation of the house other than:

- (1) those appointed under Section 4.02; or
- (2) employees of an individual member or committee.

(b) For purposes of this article, the Committee on House Administration is the employing authority for all house employees other than those for whom the employing authority is the speaker, an individual member, or a committee.

SECTION 4.04. EMPLOYEES OF INDIVIDUAL MEMBER. A member may employ, with funds from the member's operating budget, such staff as the member deems necessary.

SECTION 4.05. COMMITTEE STAFF; AUTHORITY TO REQUEST ASSISTANCE. (a) The Committee on House Administration shall provide funds for the adequate staffing of all committees appointed by the speaker.

(b) Select committees, interim study committees, standing committees, or subcommittees appointed pursuant to the resolution adopting the rules of the house or appointed by the speaker pursuant to any other resolution may employ any person, firm, or corporation, subject to budget limitations. Those committees or subcommittees may ask the assistance of any of the employees, agencies, departments, or branches of the state government.

SECTION 4.06. WORK SCHEDULE; HOURS OF HOUSE OPERATIONS. (a) An employee shall be on duty on the days and hours determined by the employing authority.

(b) All offices of the departments and divisions that support the operations of the house shall be open on days and hours determined by the Committee on House Administration or the speaker and other hours that the house or its committees are in session.

SECTION 4.07. COMPENSATION. (a) Officers and supervisory administrative employees of the house shall receive the compensation that the speaker or Committee on House Administration determines.

(b) The Committee on House Administration shall fix the compensation of house personnel employed under Section 4.03. A person employed under that section who is absent without leave shall not receive compensation for the time missed.

(c) The salaries of employees of individual members, committees, and the house shall begin when they are instructed to start work by their respective employing authority.

(d) Except as provided by Subsections (e) and (f) of this section, an ~~an~~ employee of an individual member, a committee employee, or any person, firm, or corporation employed by a committee or subcommittee may not be paid a salary in excess of \$3,750 [~~\$3,640~~] for any one month.

(e) Each individual member may exempt one of the member's employees who is paid from the member's operating account from the salary cap imposed by Subsection (d) of this section. Each calendar year the member shall file with the Committee on House Administration a statement designating the exempt employee. During a calendar year after an exempt employee has been designated, a member may exempt a different employee from the salary cap only if the employee previously designated as exempt for the calendar year is no longer employed by the member. The exempt employee may not receive compensation from the operating account of any other member or any committee.

(f) A member who is the chair of a standing or select committee may additionally exempt one employee of the committee who is paid from the committee's operating account from the salary cap imposed by Subsection (d) of this section. Each calendar year the chair shall file with the Committee on House Administration a statement designating the exempt committee employee. During a calendar year after an exempt employee has been designated, the chair may exempt a different employee from the salary cap only if the employee previously designated as exempt for the calendar year is no longer employed by the committee. The exempt employee may not receive compensation from the operating account of any other committee or any member.

SECTION 4.08. DUTIES. An employee shall perform all duties directed by the employing authority.

SECTION 4.09. APPEARANCE BEFORE COMMITTEES. An employee may appear before a standing or select committee on a measure when granted permission by majority vote of the committee.

SECTION 4.10. CHAMBER ACCESS. (a) An employee may not enter the house chamber when the house is in session except when performing official duties and specifically authorized by the Committee on House Administration.

(b) An employee may not enter the area on the floor of the house enclosed by the railing when the house is in session except when specifically authorized by the Committee on House Administration.

SECTION 4.11. VOTING. An employee may not cast a vote for a member on the voting machine or otherwise.

SECTION 4.12. VOTING RECORDS. An employee may not compile or release any information concerning the voting record of any member of the house for any session of the legislature except when a member requests information about that member's personal voting record or when the information is for the journal or other official records.

SECTION 4.13. CAMPAIGN FOR SPEAKER. An employee may not campaign or assist in the campaign of any candidate for speaker.

SECTION 4.14. POLITICAL INFLUENCE. An employee may not attempt to, or aid anyone in an attempt to, influence any member of the house in favor of or against any measure pending before the legislature, either directly or indirectly, except when answering questions or giving information at the request of a member of the house.

SECTION 4.15. OUTSIDE EMPLOYMENT, EXTRA COMPENSATION, OR GIFTS. An employee may not receive, directly or indirectly, any compensation, by gift or otherwise, from any other source, unless specifically authorized by the employing authority.

SECTION 4.16. DISCHARGE. (a) An employee is subject to immediate discharge by the employing authority for violation of any section of this article or any other applicable rule.

(b) The Committee on House Administration shall dispense with the services of any person employed under Section 4.03 who is not needed or who is guilty of misconduct.

(c) An individual member or chair of a committee employing an employee who violates any applicable section of this article or any rule shall be advised of the violation by the Committee on House Administration, and the employing authority shall take appropriate action with regard to the employee in question.

(d) The Committee on House Administration may conduct an investigation into allegations of gross misconduct and may discharge or otherwise discipline an employee of an individual member or committee if the committee finds that the employee has engaged in gross misconduct.

SECTION 4.17. DURATION OF EMPLOYMENT. The period of employment of all employees shall be determined by the employing authority, except that employees of all committees and of individual members who are not members-elect of the next legislature shall be terminated not later than noon on the day of the convening of the next regular session.

SECTION 4.18. EMPLOYMENT BY MORE THAN ONE MEMBER OR COMMITTEE. (a) Members may join in the employment of a research assistant or assistants to be paid jointly from their operating budgets. Unless expressly authorized by the provisions of this resolution, the members who join together to

sponsor such research shall not constitute a committee, task force, or group to operate in any official or quasi-official manner not specifically authorized under the Rules of the House of Representatives.

(b) No person, firm, or corporation may be employed by more than two committees or subcommittees.

SECTION 4.19. POSITION TITLES AND CLASSIFICATIONS. The job title for each position shall be determined by the employing authority. The employing authority and the house business office shall classify each job title for accounting purposes according to the following position classifications, unless otherwise determined by the Committee on House Administration:

- (a) Member Employees
 - 1. Administrative Assistant
 - 2. Legislative Aide
 - 3. Administrative Secretary
 - 4. Secretary
 - 5. Clerk
- (b) Committee Employees
 - 1. Committee Counsel
 - 2. Chief Committee Clerk
 - 3. Committee Clerk
 - 4. Committee Secretary
- (c) Research Employees
 - 1. Research Director
 - 2. Research Assistant
 - 3. Research Secretary

ARTICLE 5. ACCOUNTING

SECTION 5.01. FUNDING OF OFFICE OPERATIONS. (a) Each member of the house shall be allocated funds for staff, office supplies, office equipment, postage, printing, telephone, travel, and such other reasonable and necessary office expenses as may be determined by the Committee on House Administration.

(b) The manner in which funds are allocated, and the amounts thereof, are as provided by this article.

SECTION 5.02. OPERATING ACCOUNTS. (a) Each member who served in the 78th [~~77th~~] Legislature shall have the following operating accounts for the 79th [~~78th~~] Legislature:

(1) a Fiscal Year Five [~~Three~~] Operating Account (September 1, 2004 [~~2002~~], through August 31, 2005 [~~2003~~]);

(2) a Fiscal Year Six [~~Four~~] Operating Account (September 1, 2005 [~~2003~~], through August 31, 2006 [~~2004~~]); and

(3) a Fiscal Year Seven [~~Five~~] Operating Account (September 1, 2006 [~~2004~~], through January 9, 2007 [~~11, 2005~~]).

(b) Each member who did not serve in the 78th [~~77th~~] Legislature shall have the following operating accounts for the 79th [~~78th~~] Legislature:

(1) a Fiscal Year Five [~~Three~~] Operating Account (January 11, 2005 [~~14, 2003~~], through August 31, 2005 [~~2003~~]);

(2) a Fiscal Year Six [~~Four~~] Operating Account (September 1, 2005 [~~2003~~], through August 31, 2006 [~~2004~~]); and

(3) a Fiscal Year Seven [~~Five~~] Operating Account (September 1, 2006 [~~2004~~], through January 9, 2007 [~~11, 2005~~]).

(c) For each member who served in the 78th [~~77th~~] Legislature, it shall not be necessary to close the member's Fiscal Year Five [~~Three~~] Operating Account when the 79th [~~78th~~] Legislature convenes.

SECTION 5.03. CREDIT FOR NEWLY ELECTED MEMBERS. Each member who did not serve in the 78th [~~77th~~] Legislature may have credited to the member's Fiscal Year Five [~~Three~~] Operating Account the amount of \$2,000.

SECTION 5.04. MONTHLY CREDIT. (a) Each member's operating account shall be credited with \$11,250 [~~\$10,750~~] for each month.

(b) The Committee on House Administration may provide to the dean and the speaker pro tempore of the house additional funds as may be determined to be necessary for the duties of those offices to be fulfilled.

SECTION 5.05. ACCOUNT CLOSING AND AUDIT. (a) Each member's Fiscal Year Five [~~Three~~] Operating Account shall be closed as of August 31, 2005 [~~2003~~], and a final audit shall be conducted as soon thereafter as possible.

(b) Each member may carry forward and have credited to the member's Fiscal Year Six [~~Four~~] Operating Account the unexpended balance of the member's Fiscal Year Five [~~Three~~] Operating Account, not to exceed \$12,000 [~~\$10,000~~].

(c) Each member's Fiscal Year Six [~~Four~~] Operating Account shall be closed as of August 31, 2006 [~~2004~~], and a final audit shall be conducted as soon thereafter as possible.

(d) Each member may carry forward and have credited to the member's Fiscal Year Seven [~~Five~~] Operating Account the unexpended balance of the member's Fiscal Year Six [~~Four~~] Operating Account, not to exceed \$12,000 [~~\$10,000~~].

SECTION 5.06. EXPENDITURES CHARGED WHEN ENCUMBERED. All expenditures shall be charged to the period in which they are encumbered.

SECTION 5.07. TRAVEL TO AUSTIN DURING SESSION NOT CHARGED TO OPERATING ACCOUNT. While the legislature is in session, the travel expenses of members for one trip each week between Austin and their districts and return shall not be charged against the members' operating accounts but shall be paid from funds appropriated for that purpose by the legislature.

SECTION 5.08. TRAVEL OUTSIDE TEXAS. A member is entitled to be reimbursed for actual and necessary expenses incurred while traveling outside Texas in the performance of legislative duties and responsibilities. If the reimbursement is for travel inside the conterminous United States, reimbursement is limited to twice the amount that would be reimbursed state employees for the same travel under the comptroller's *State of Texas Travel Allowance Guide*.

SECTION 5.09. APPROVAL OF EXPENDITURES. (a) No allowance included in this resolution shall be expended except for actual salaries or actual expenses of the house, its members, departments, committees, and employees and for such other expenses as are authorized by the Committee on House Administration.

(b) The Committee on House Administration may not authorize any expenditures of funds for personal or political campaign reasons.

(c) All expenditures authorized by this resolution shall be paid from funds appropriated for the use of the house of representatives by vouchers or other forms approved by the speaker of the house and the Committee on House Administration.

ARTICLE 6. CAUCUSES

SECTION 6.01. DEFINITION. In this article, "caucus" means an organization that is composed exclusively of members of the legislature, that elects or appoints officers and recognizes identified legislators as members of the organization, and that exists for research and other support of policy development and interests that the membership holds in common. An organization whose only nonlegislator members are the lieutenant governor or the governor remains a "caucus" for purposes of this section.

SECTION 6.02. USE OF HOUSE FUNDS, EMPLOYEES, EQUIPMENT, AND FACILITIES. (a) Except as expressly authorized by this section, funds appropriated to the house may not be expended in support of a caucus, employees compensated from funds appropriated to the house may not perform caucus activities, and state-owned equipment and facilities may not be used in the performance of caucus activities.

(b) A person who is a caucus employee may not also be an employee of an individual member or a committee and may not be compensated for any purpose from funds appropriated to the house of representatives.

(c) An individual member of the house may authorize the use of state equipment assigned to the member's office and the performance of caucus activities by an employee of the member only if:

(1) the member determines that the activities support the member's official duties;

(2) the caucus does not endorse or support a candidate for public office;

(3) the caucus complies with the open meetings law (Chapter 551, Government Code) and public information law (Chapter 552, Government Code) as a governmental body; and

(4) the caucus does not accept contributions from nonmembers that are required by law to be reported to the Texas Ethics Commission.

(d) A caucus may use the meeting rooms of the Capitol and Capitol extension to conduct meetings of the caucus membership or to host public forums on matters of interest to the caucus.

(e) An individual member may not house, in the state office space assigned to the member, caucus employees or equipment owned by a caucus. A member may retain in the member's office a telephone, facsimile machine, or computer owned by the caucus for purposes of the member's communication with the caucus or caucus employees.

(f) This section does not prohibit a member of the house from employing a person who at the same time is receiving a stipend from a caucus, or a nonprofit corporation affiliated with a caucus, if:

(1) the employment is in connection with an internship program associated with an institution of higher education for which the person receiving the stipend is receiving course credit;

(2) the person is employed by the house member for not more than six months; and

(3) the person has not previously participated in an internship program for which a caucus or nonprofit corporation affiliated with a caucus has provided a stipend.

SECTION 6.03. CONTRIBUTIONS. (a) A person acting on behalf of a caucus may not knowingly accept a contribution in violation of Section 253.0341, Election Code.

(b) A person acting on behalf of a caucus may not knowingly accept, and shall refuse a contribution that is received, in the Capitol.

SECTION 6.04. MEMBERSHIP AND OFFICER LISTS. Each caucus shall provide to the chief clerk, on a regular basis, a list of its current membership and officers.

ARTICLE 7. HOUSE RESEARCH ORGANIZATION

SECTION 7.01. ESTABLISHMENT. The Committee on House Administration shall provide operating funds for a house research organization that will be an administrative department of the house and may for that purpose adopt policies and procedures relating to the administrative operation of that organization.

SECTION 7.02. STEERING COMMITTEE. The functions and duties performed by the house research organization shall be governed by a 15-member steering committee composed of house members serving staggered four-year terms, who are subject to approval of the house membership.

SECTION 7.03. BUDGET. The house research organization shall have an operating account and in compliance with the terms of its establishment shall operate under a budget approved by the steering committee and the Committee on House Administration.

ARTICLE 8. SPECIAL PROVISIONS FOR INTERIM

SECTION 8.01. INTERIM COMMITTEE ACTIVITIES. (a) Pursuant to the Legislative Reorganization Act of 1961 (Subchapter B, Chapter 301, Government Code), standing committees of the house established by the rules of the house may hold meetings while the legislature is not in session.

(b) The speaker may grant authority to select committees, interim study committees, subcommittees, or standing committees of the house to hold meetings while the legislature is not in session as the speaker considers necessary

and desirable to conduct the business of the house and to assist the speaker in conducting the business of the house, under a pattern of operation and restrictions determined by the rules of the house.

(c) The committee members and employees may either be reimbursed for actual and necessary expenses or receive a per diem not to exceed that provided by law for state officials or state employees, along with mileage or other transportation expenses at the same rate as provided by law for state officials or state employees when conducting such business and attending those meetings when approved by the Committee on House Administration.

SECTION 8.02. POWERS AND DUTIES OF COMMITTEE ON HOUSE ADMINISTRATION DURING INTERIM. (a) When the legislature is not in session, the Committee on House Administration may act as provided by this section.

(b) The committee may call meetings for the transaction of necessary business, and the committee members shall be reimbursed for expenses incurred by them when attending such meetings or when in performance of their duties as members of the Committee on House Administration, the reimbursement to be either actual and necessary expenses or a per diem not to exceed that provided by law for state officials or state employees, along with mileage or other transportation expenses at the same rate as provided by law for state officials or state employees.

(c) The committee may reimburse authorized members and employees for expenses incurred by them when traveling in the performance of their legislative duties and responsibilities within their respective districts or within any county in which any part of their districts lie or from their districts to the State Capitol, the reimbursement to be either actual and necessary expenses or a per diem not to exceed that provided by law for state officials or state employees, along with mileage or other transportation expenses at the same rate as provided by law for state officials or state employees.

(d) The committee may pay for all other reasonable and necessary expenses, including operation of each member's district office, incurred by the members of the house of representatives. The expenses shall be paid from funds appropriated for that purpose [~~by the 78th Legislature~~], or any other funds appropriated for the use of the house of representatives, on vouchers or other forms approved by the chair of the Committee on House Administration, in accordance with regulations governing such expenditures.

(e) The committee may assign or reassign parking places in the best interest of the house under such terms and conditions as the committee deems necessary.

(Speaker in the chair)

Amendment No. 1

Representative Eiland offered the following amendment to **HR 3**:

Page 14, line 7, delete paragraph (e) and renumber accordingly.

Representative Dutton moved to table Amendment No. 1.

The motion to table was lost.

Amendment No. 1 was adopted.

HR 3, as amended, was adopted. (Hochberg, Hopson, Leibowitz, McReynolds, Peña, and Quintanilla recorded voting no.)

REASONS FOR VOTE

I voted no because I objected to raising my budget at a time when funds are scarce.

Hochberg
Peña

I voted no on **HR 3** because it has a provision in it whereby members receive a \$500 increase in our office holder's account each month. In light of the fact that I don't yet know how or if we will keep the Lufkin State School open or how to fund public education because of the court order, I respectfully refuse to give our office holder's account an increase.

McReynolds

HR 4 - ADOPTED (by Pitts and Puente)

The following resolution was laid before the house:

HR 4, Suspending the constitutional order of business.

A record vote was requested.

HR 4 was adopted by (Record 3): 132 Yeas, 6 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Escobar; Farabee; Flores; Flynn; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T; Kolkhorst; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Naishtat; Nixon; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Alonzo; Coleman; Farrar; Hochberg; Moreno, J.; Noriega, M.

Present, not voting — Mr. Speaker(C); Burnam.

Absent, Excused — Jones, D.

Absent — Edwards; Elkins; Geren; Hardcastle; Hodge; Krusee; Moreno, P.; Oliveira.

ADJOURNMENT

Representatives Dutton and Edwards moved that the house adjourn until 9 a.m. tomorrow in memory of A. B. Stroughter of Houston.

The motion prevailed.

The house accordingly, at 10:57 a.m., adjourned until 9 a.m. tomorrow.

